

# THE SCHOOL ADMINISTRATOR

and Uniform Compliance Guidelines  
ISSUED BY STATE BOARD OF ACCOUNTS

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Volume 165A

May 2004

The following is a Digest of some of the laws passed by the 2004 Regular Session of the General Assembly affecting school corporations. Please note the effective dates. Some of the laws do not pertain directly to school corporations but are included in the Digest for ready reference to the covered subject matter.

The Digest is not intended as an expression of legal interpretation. The Digest is also not intended to be all inclusive. References in the Digest will be to the Indiana Code in the following form (Amends IC 20-5-2-2) (Amends Indiana Code, Title 20, Article 5, Chapter 2, Section 2).

## **PUBLIC LAW 1 – SENATE ENROLLED ACT 1. EFFECTIVE VARIOUS DATES. PROPERTY TAXES.**

Amends IC 4–22–2–37.1 concerning the Department of Local Government Finance rulemaking authority.

Amends IC 5–13–10.5–11 to provide the Treasurer of State may invest or reinvest funds that are held by the treasurer and that are available for investment in obligations issued by any of the following: (1) Agencies or instrumentalities of the United States government. (2) Federal government sponsored enterprises. (3) The Indiana bond bank, if the obligations are secured by tax anticipation time warrants or notes that: (A) are issued by a political subdivision (as defined in IC 36-1-2-13); and (B) have a maturity date not later than the end of the calendar year following the year of issuance.

Adds IC 6-1.1–4–39 concerning true tax value valuations.

Amends IC 6-1.1-19-1.5 concerning the formula for the school general fund maximum levy.

Amends IC 6–1.1–19–1.7 to provide in part (b) A school corporation's levy excess is valid, and the general fund portion of a school corporation's levy excess may not be contested on the grounds that it exceeds the school corporation's general fund levy limit for the applicable calendar year. However, the school corporation shall deposit, except as provided in subsection (h), its levy excess in a special fund to be known as the school corporation's levy excess fund. Eliminates the 102% requirement for deposit to the levy excess fund.

We understand the Department of Local Government Finance may calculate the levy excess at 100% of the certified levy for 2003 pay 2004 and use to reduce the 2005 pay 2006 property taxes.

Amends IC 6–1.1–19–4.7 concerning emergency appeals.

Amends IC 6–1.1–20–3.1 to provide in part (4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of: (A) one hundred (100) owners of real property within the political subdivision; or (B) five percent (5%) of the owners of real property within the political subdivision. (5) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that: (A) the carrier and signers must be owners of real property; (B) the carrier must be a signatory on at least one (1) petition; (C) after the signatures

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have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and (D) govern the closing date for the petition period. Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners. County Form 201K, Petition Requesting The Application Of A Petition And Remonstrance Process and County Form 201L, Instructions Relative To Circulation Of Petition Requesting The Application Of A Petition And Remonstrance Process have been prescribed.

Adds IC 6–1.1–20–10 to provide in part (a) If a petition and remonstrance process is commenced under section 3.2 of this chapter, during the sixty (60) day period commencing with the notice under section 3.2(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by: (A) using students to transport written materials to their residences; or (B) including a statement within another communication sent to the students' residences. However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision. County Form 201I, Instructions Relative To Circulation Of Petition For And Remonstrance Against, Revised 2004.

Makes various changes to IC 6–1.1–21 concerning property tax replacement credits.

Amends IC 20-5.5-7-3 concerning distributions to charter school organizers.

Amends IC 21–1–3–8 concerning common school fund investments by adding item (4) bonds, notes, or other securities issued by the Indiana bond bank and described in IC 5-13-10.5-11(3).

Amends IC 21–2–11.5–3 concerning transportation fund levies.

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Sections 78 through 85 are added concerning assessment appeals, including Section 84, to provide effective March 1, 2004, (a) The definitions set forth in IC 6-1.1-20 apply throughout this SECTION. (b) The following provisions apply to a controlled project for which a notice of preliminary determination to issue bonds or enter into a lease was published before March 1, 2004: (1) The amendments made by IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, and by IC 6-1.1-20-10, as added by this act, do not apply to: (A) a petition requesting the application of the petition and remonstrance process to the controlled project; or (B) a petition or remonstrance concerning the controlled project. (2) IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, both as in effect before March 1, 2004, apply to: (A) a petition requesting the application of the petition and remonstrance process to the controlled project; or (B) a petition or remonstrance concerning the controlled project.

Section 86 is added to provide an emergency is declared for this act.

**PUBLIC LAW 11 – SENATE ENROLLED ACT 36. EFFECTIVE MARCH 16, 2004. CONSTITUTIONAL AMENDMENTS.** Proposed amendment to Article 10, Section 1 of the Constitution of the State of Indiana concerning certain property being exempt from property taxes.

Also proposes an amendment to Article 6, section 2 to establish uniform dates for the beginning terms of the county offices of clerk of the circuit court, auditor, recorder, treasurer, sheriff, coroner, and surveyor.

Also proposes an amendment to article 5, section 10, concerning vacancies in the Office of Governor and Lt. Governor.

**PUBLIC LAW 14 – SENATE ENROLLED ACT 72. EFFECTIVE VARIOUS DATES. ELECTIONS.** Amends various sections of IC 3-5-3 concerning election matters.

Section 202 [Effective January 1, 2004 (retroactive)]: provides (a) This SECTION applies to an individual: (1) who was elected during November 2003 to an office of a political subdivision; and (2) to whom IC 5-4-1-1.2 applies. (b) Notwithstanding the time limits under IC 5-4-1-1.2(c), an individual's deposit before March 1, 2004, of the oath required by IC 5-4-1-1 with the office listed in IC 5-4-1-4 is legalized, and IC 5-4-1-1.2(d) does not apply. (c) This SECTION expires July 1, 2004.

**PUBLIC LAW 23 – HOUSE ENROLLED ACT 1001. EFFECTIVE VARIOUS DATES. PROPERTY TAXES.** Similar provisions to Public Law 1, Senate Enrolled Act 1 including amending IC 6-1.1-18.5-12 concerning civil taxing unit appeals prior to December 31.

**PUBLIC LAW 24 – HOUSE ENROLLED ACT 1017. EFFECTIVE JULY 1, 2004. ENVIRONMENTAL MATTERS.** Amends various provisions in IC 13 concerning environmental matters including IC 13-23-12-7 to provide in part (e) If an owner described in subsection (a) registered an underground storage tank before January 1, 2004, the penalty established in subsection (a) may not be assessed against the owner for any failure to pay an annual registration fee under section 1 of this chapter: (1) in connection with the underground storage tank; and (2) that was due before January 1, 2004.

**PUBLIC LAW 28 – HOUSE ENROLLED ACT 1032. EFFECTIVE JULY 1, 2003, (RETROCATIVE). GENERAL ASSEMBLY ELECTRONIC REPORTS.** Amends various sections of the Indiana code provide that the report submitted must be in electronic format under IC 5-14-6.

Also amends IC 6-1.1-19-2 concerning county board of tax adjustment appeals.

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**PUBLIC LAW 39 – HOUSE ENROLLED ACT 1136. EFFECTIVE, JULY 1, 2004. METHAMPHETAMINE ABUSE TASK FORCE.** Adds IC 5–2–14 to create the Task Force to determine if individuals that use methamphetamine interfere with the duties of fire departments and educational institutions.

**PUBLIC LAW. 47 – HOUSE ENROLLED ACT 1253. EFFECTIVE JULY 1, 2004. SPECIAL PURPOSE BUS.** Amends IC 20-9.1-5-2.6 to provide (a) A special purpose bus: (1) may be used by a school corporation to provide regular transportation of school children between one (1) school and another school but not between their residence and the school; (2) may be used to transport school children and their supervisors, including coaches, managers, and sponsors to athletic, other extracurricular school activities, and field trips; and (3) may be used by a school corporation to provide transportation between their residence and the school for persons enrolled in a special program for the habilitation or rehabilitation of developmentally disabled or physically disabled persons.

**PUBLIC LAW 49 – HOUSE ENROLLED ACT 1257. VOLUNTEER FIREFIGHTERS. EFFECTIVE JULY 1, 2004.** Adds IC 36-8-12-10.5 to provide in part (b) This section applies to an employee of a political subdivision who: (1) is a volunteer firefighter; and (2) has notified the employee's employer in writing that the employee is a volunteer firefighter. (c) The political subdivision employer may not discipline an employee: (1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment; or (2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work. (d) The political subdivision employer may require an employee who has been absent from employment as set forth in subsection (c)(1) or (c)(2) to present a written statement from the fire chief or other officer in charge of the volunteer fire department at the time of the absence indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence. (e) An employee who is disciplined by the employer in violation of subsection (c) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following: (1) Payment of back wages. (2) Reinstatement to the employee's former position. (3) Fringe benefits wrongly denied or withdrawn. (4) Seniority rights wrongly denied or withdrawn. An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

**PUBLIC LAW 50 – HOUSE ENROLLED ACT 1265. EFFECTIVE JULY 1, 2004. STATE AGGREGATE PRESCRIPTION DRUG PURCHASING PROGRAM.** Adds IC 16-47 to establish the State Aggregate Prescription Drug Purchasing Program with the State Personnel Department (department). IC 16-47-1-4 provides in part (a) The department, with the approval of the budget agency, shall establish, implement, and maintain an aggregate prescription drug purchasing program through which terms are negotiated related to the purchase of prescription drugs by: (1) an entity described in section 5(a) or 5(b) of this chapter; or (2) an individual who is covered under a health benefit plan that includes a prescription drug benefit. ... IC 16-47-1-5 provides in part (b) The following may participate in the program: (1) A state agency other than the department that: (A) purchases prescription drugs; or (B) arranges for the payment of the cost of prescription drugs. (2) A local unit (as defined in IC 5-10-8-1)...

**PUBLIC LAW 54 – HOUSE ENROLLED ACT 1301. EFFECTIVE JULY 1, 2004. LEWIS AND CLARK BICENTENNIAL COMMISSION.** Adds IC 14–20–15 concerning the establishment of the Commission.

**PUBLIC LAW 56 – HOUSE ENROLLED ACT 1306. EFFECTIVE JULY 1, 2004. PERF, TERF.** Adds IC 5-10.2-5-36 and 37 to provide for increases in the pension portion for members of the Public Employees Retirement Fund and Teachers Retirement Fund.

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**PUBLIC LAW 60 – HOUSE ENROLLED ACT 1344. EFFECTIVE JULY 1, 2004. 211 DIALING CODE SERVICES FOR ACCESSING HUMAN SERVICES INFORMATION.** Adds IC 8-1-19.5 to encourage the use of 211 dialing code for public accessing of human services information and referrals.

**PUBLIC LAW 63 – HOUSE ENROLLED ACT 1438. EFFECTIVE MARCH 16 AND JULY 1, 2004. ENTERPRISE ZONE STUDY COMMISSION.** Adds section 3, concerning the Commission and the study of various items including property taxes.

**PUBLIC LAW 64 – HOUSE ENROLLED ACT 1005. EFFECTIVE MARCH 17 AND JULY 1, 2004. PROPERTY TAXES.** Amends various provisions in IC 6-1.1 concerning abatements. Also creates the Property Tax Replacement Study Commission to study the possible reduction of property taxes. Also establishes the Local Government Financing Study Commission.

**PUBLIC LAW 66 – HOUSE ENROLLED ACT 1080. EFFECTIVE JULY 1, 2004. PRICE PREFERENCES.** Amends IC 5-22-15-20 to add item (f) Rules adopted under subsection (c) must provide that a contract shall be awarded to the lowest responsive and responsible offeror, regardless of the preference provided under this section, if: (1) the offeror is an Indiana business; or (2) the offeror is a business from a state bordering Indiana and the offeror's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses.

Also adds IC 5-22-15-20.5 concerning preferences by a State Agency.

**PUBLIC LAW 79 – HOUSE ENROLLED ACT 1345. EFFECTIVE MARCH 17, 2004. MILITARY LEAVE.** Adds IC 5-9-4 concerning procedures for taking a leave of absence for military service, including IC 5-9-4-6 (a) An officeholder who: (1) is called into active duty in the: (A) armed forces of the United States; or (B) national guard; and (2) as a result of the action described in subdivision (1), is unable to perform the duties of the officeholder's office; is entitled to a leave of absence from the officeholder's office for the period of the active duty. (b) An officeholder has not vacated the officeholder's office by taking a leave of absence described in subsection (a).

**PUBLIC LAW 80 – HOUSE ENROLLED ACT 1349. EFFECTIVE JULY 1, 2004. ACTION AGAINST PUBLIC EMPLOYEES AND GOVERNMENT ENTITIES.** Adds IC 34-13-7 concerning filing requirements for civil rights actions or tort claims against public employees or governmental entities.

**PUBLIC LAW 81 – HOUSE ENROLLED ACT 1365. EFFECTIVE VARIOUS DATES. RAINY DAY FUND. PUBLIC WORKS PROJECTS.** Amends IC 36-1-8-5.1 to provide (a) A political subdivision may establish a rainy day fund by the adoption of: . . . (2) a resolution, in the case of any other political subdivision. (b) . . . a resolution adopted under this section must specify the following: (1) The purposes of the rainy day fund. (2) The sources of funding for the rainy day fund, which may include the following: (A) Unused and unencumbered funds under: (i) section 5 of this chapter; (ii) IC 6-3.5-1.1-21.1; (iii) IC 6-3.5-6-17.3; or (iv) IC 6-3.5-7-17.3. (B) Any other funding source: (i) specified in the . . . resolution adopted under this section; and (ii) not otherwise prohibited by law. (c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. (d) In any fiscal year, a political subdivision may transfer under section 5 of this chapter not more than ten percent (10%) of the political subdivision's total annual budget for that fiscal year, adopted under IC 6-1.1-17, to the rainy day fund. (e) A political subdivision may use only the funding sources specified in subsection (b)(2)(A) or in the . . . resolution establishing the rainy day fund. The political subdivision may adopt a subsequent . . . resolution authorizing the use of another funding source. (f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

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**PUBLIC LAW 81 – HOUSE ENROLLED ACT 1365. EFFECTIVE VARIOUS DATES. RAINY DAY FUND. PUBLIC WORKS PROJECTS. (Continued)**

Adds IC 36-9-41-1 is added to provide: This chapter applies to a public work project that will cost the political subdivision not more than two million dollars (\$2,000,000).

IC 36-9-41-2 is added to provide: As used in this chapter, "public work" means a project for the construction of any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds.

IC 36-9-41-3 is added to provide: Notwithstanding any other statute, a political subdivision may borrow the money necessary to finance a public work project from a financial institution in Indiana by executing a negotiable note under section 4 of this chapter. The political subdivision shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed under this chapter is chargeable against the political subdivision's constitutional debt limitation.

IC 36-9-41-4 is added to provide: A political subdivision borrowing money under section 3 of this chapter shall execute and deliver to the financial institution the negotiable note of the political subdivision for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years.

Other sections are added concerning appeal procedures.

Amends various sections of IC 6-1.1 concerning assessments.

**PUBLIC LAW 88 – SENATE ENROLLED ACT 493. EFFECTIVE MARCH 9, 2004. RENEWAL OF LICENSES DURING MILITARY SERVICE.** Adds IC 25-1-12 concerning licensing and regulating bodies, education requirements and extensions of renewals for individuals called to active duty in the armed forces of the United States or the Indiana army or air national guard.

**PUBLIC LAW 93 – HOUSE ENROLLED ACT 1266. EFFECTIVE JULY 1, 2004. INTERNET PURCHASING SITES.** Adds IC 5-22-2-13.5 to provide "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

Adds IC 5-22-2-13.7 to provide "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet. The term includes an Internet purchasing site developed under IC 4-13-17.

Adds IC 5-22-2-28.5 to provide "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet.

Amends IC 5-22-3-4 to add (d) A governmental body conducting a reverse auction must receive electronic offers for supplies through an Internet purchasing site.

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**PUBLIC LAW 93 – HOUSE ENROLLED ACT 1266. EFFECTIVE JULY 1, 2004. INTERNET PURCHASING SITES. (Continued)**

Amends IC 5-22-7-5 to provide (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1. (b) The purchasing agency for a state agency shall also provide electronic access to the notice through the electronic gateway administered by the intelnet commission. (c) The purchasing agency for a political subdivision may also provide electronic access to the notice through: (1) the electronic gateway administered by the intelnet commission as determined by the commission; or (2) any other electronic means available to the political subdivision.

Adds IC 5-22-7.5 concerning Online Reverse Auctions. Adds IC 5-22-7.5-1 to provide (a) A purchasing agency may conduct a reverse auction for the purchase of supplies by using an Internet purchasing site to: (1) issue an invitation for bids; and (2) receive bids. (b) Except as provided in this chapter, a purchasing agency and a bidder must comply with the requirements of this article when participating in a reverse auction.

Adds IC 5-22-7.5-2 to provide (a) Before conducting a reverse auction, the purchasing agency must adopt written policies that do the following: (1) Establish procedures for all the following: (A) Transmitting notices, solicitations, and specifications. (B) Receiving offers. (C) Making payments. (D) Protecting: (i) the identity of an offeror; and (ii) the amount of an offer until the time fixed for the opening of offers. (E) For a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing. (F) Establishing the deadline by which offers must be received and will be considered to be open and available for public inspection. (G) Establishing the procedure for the opening of offers. (2) Require the purchasing agency to maintain adequate documentation regarding reverse auctions so that the transactions may be audited as provided by law. (b) Written policies that comply with rules for an Internet public purchasing site adopted by the Indiana department of administration under IC 4-13-17-4 satisfy the requirements of this section.

Adds IC 5-22-7.5-3 to provide If a purchasing agency issues an invitation for bids using a reverse auction conducted through an Internet purchasing site under this chapter, only bids made: (1) in accordance with the policies described in section 2 of this chapter; and (2) through the Internet purchasing site; may be evaluated by the purchasing entity at the close of bidding.

Adds IC 5-22-7.5-4 to provide When used for a reverse auction, an Internet purchasing site must do the following: (1) Provide information that the purchasing entity considers necessary or beneficial to potential bidders. (2) Display the amount of all bids previously submitted regarding the reverse auction for public viewing. (3) Conceal information that identifies a bidder. (4) Comply with this article.

Adds IC 5-22-7.5-5 to provide The purchasing agency may charge a bidder in a reverse auction a fee set in the written policies adopted under section 2 of this chapter.

Adds IC 5-22-7.5-6 to provide For purposes of IC 5-22-7-6, a bid made through an Internet purchasing site is considered to be opened when a computer generated record of the information contained in all bids for a proposed purchase that were received by the site not later than the posted bid deadline is reviewed publicly by the purchasing agency in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.

Adds IC 5-22-7.5-7 to provide IC 5-22-16-6(a)(2) does not apply to a reverse auction.

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**PUBLIC LAW 93 – HOUSE ENROLLED ACT 1266. EFFECTIVE JULY 1, 2004. INTERNET PURCHASING SITES.** (Continued)

Adds IC 5-22-7.5-8 to provide (a) As used in this section, "construction equipment" means equipment used in construction work, the unit price of which is greater than ten thousand dollars (\$10,000). (b) A purchasing agency may not use a reverse auction to purchase construction equipment.

Adds Section 10 to provide (a) The definitions set forth in IC 4-13-17, as added by this act, apply throughout this SECTION. (b) Notwithstanding IC 4-13-17, as added by this act, the Indiana department of administration shall: (1) carry out the duties imposed upon it under IC 4-13-17, as added by this act, under interim written guidelines approved by the department; and (2) provide access to Internet purchasing sites for the purposes of IC 4-13-17, as added by this act, before January 1, 2005. (c) This SECTION expires January 1, 2005.

Section eleven is added one to provide an emergency is declared for the act.

**PUBLIC LAW 94 – HOUSE ENROLLED ACT 1285. EFFECTIVE VARIOUS DATES. PERF.** Amends various sections of IC 5 concerning confidentiality of certain PERF records.

Adds section one to provide (a) The pension management oversight commission established by IC 2-5-12-1 shall examine and make recommendations regarding the feasibility of authorizing members of the retirement funds administered by the board of trustees of the public employees' retirement fund to withdraw, before retirement, a member's contributions when the member demonstrates an immediate and great financial need.

(b) The commission shall operate under the direction of the legislative council and issue a final report when directed to do so by the council.

(c) This SECTION expires December 31, 2005.

**PUBLIC LAW 95 – HOUSE ENROLLED ACT 1401. EFFECTIVE VARIOUS DATES. PUBLIC OFFICERS COMPENSATION ADVISORY COMMISSION.** Adds IC 2-5-1.5 to create the commission to make recommendations "... Concerning suitable salaries for public officers..."

Amends IC 5-10.2-4-3 concerning the Teachers' Retirement Fund.

**PUBLIC LAW 97 – SENATE ENROLLED ACT 106. EFFECTIVE VARIOUS DATES. RECODIFICATION OF TITLE 33. TECHNICAL CORRECTIONS.** Provides numerous corrections to the Indiana Code.